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ALEXANDER L. STEVAS,
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No. 84-1450

IN THE

Supreme Court of the United States

OCTOBER TERM, 1984

STEPPING STONES ASSOCIATES,

Petitioner,

– against –.

THE CITY OF WHITE PLAINS,

Respondent.

ON PETITION FOR WRIT OF CERTIORARI
TO THE NEW YORK STATE COURT OF APPEALS

REPLY BRIEF FOR PETITIONER

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McDONALD v. MILLER, 414 U.S. 1158 (1974); *NECTOW v. CAMBRIDGE*, 277 U.S. 183; *SEATTLE TRUST CO. v. ROBERGE*, 278 U.S. 116 AND OTHER CASES ARE APPLICABLE HEREIN.

The arguments raised by the Respondents avoid the thrust of the Petitioner's Constitutional objections to the ordinance. The ordinance did not simply provide for a graduated rate structure; the ordinance provided for a billing system which required the Petitioner to be classified and billed differently from single family residences. The ordinance required one bill for all of the residences in the building (248) and required that the bill be

calculated on the accumulated usage of all of the residences (Appendix to Petition, A-23,24). It is upon the particular application of the graduated rate, i.e., to the combined usage of 248 residences, that the petitioner bases the complaint herein. The Petitioner was classified differently from other residential units and the unequal and discriminatory treatment was not rationally based. Therefore, the ordinance is unconstitutional. The Respondent argues herein (pages 3-4 of the Respondent's Brief) that there was "no classification; just a rate schedule." However, the billing requirements of the ordinance as discussed above force the Petitioner to be classified as a single account user instead of 248 users which is the actual case. The New York Court of Appeals and Appellate Division looked only at the graduated rate structure and failed to examine that portion of the ordinance which required a single bill classification and this was error.

Respondent has argued that garbage and zoning ordinances do not set any precedents for the matter herein. However, *McDonald v. Miller*, 414 U.S. 1158 (1974); *Nectow v. Cambridge*, 277 U.S. 183; and *Seattle Trust Co. v. Roberge*, 278 U.S. 116 and other cases cited in the Petitioner's main brief are applicable in that they establish the basic standard for the requisite rational relationship for ordinances and specifically those affecting residential units.

CONCLUSION

For the foregoing reasons, a Writ of Certiorari should issue to review the judgment of the New York State Court of Appeals.

Respectfully submitted,

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